

16235 U.S. PTO  
16/09/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: VM7010733002  
First Named Inventor: Hassan Mostafavi  
Prior Application Information:  
Serial No. 09/178,383  
Examiner: Craig E. Church  
Art Unit: 2882

M/S: New Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

16235 U.S. PTO  
10/664534  
09/16/03

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

continuation       divisional       continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/178,383  
filed on October 23, 1998 by

Hassan Mostafavi entitled:

**METHOD AND SYSTEM FOR PREDICTIVE PHYSIOLOGICAL GATING  
OF RADIATION THERAPY**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**I. APPLICATION ELEMENTS ENCLOSED**

21 Page(s) of Written Description  
3 Page(s) of Claims  
1 Page(s) of Abstract  
10 Sheet(s) of Drawings       formal       informal  
2 Page(s) of  Declaration or  Declaration and Power of Attorney  
     Copy from prior application [37 CFR §1.63(d)]  
     Newly executed  
8 Page (s) of Assignments and Recordations from prior patent application

**CERTIFICATE OF MAILING**  
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Alexandria, VA 22313-1450.

EV 348161155 US  
Express Mail Label No.

September 16, 2003  
Date of Deposit

Carolyn Tobias  
Name of Person Mailing Paper

Carolyn Tobias

- An Information Disclosure Statement, PTO/SB/08A,  with copies of cited items.
- Application Data Sheet
- Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

## II. FEE CALCULATION

- Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>						\$750.00
Total Claims	25	-	20	=	5	x \$18.00
Independent Claims	3	-	3	=	0	x \$84.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						\$840.00
Reduction by ½ for Filing by Small Entity.					<input type="checkbox"/>	\$0.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
<b>TOTAL FEES DUE HEREWITH</b>						\$840.00

## III. PRIORITY - 35 USC § 119

- Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- The certified copy will follow.

## IV. AMENDMENTS

- Cancel in this application original Claims 2-25 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

- Relate back information included in preliminary amendment, specification or Application Data Sheet.
- Please amend the specification by inserting the following after the title:

--RELATED APPLICATION DATA

This application is a continuation of pending U.S. Patent Application, Serial No. 09/178,383, the entire disclosure is expressly incorporated by reference herein.--

- With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
  - the same.
  - less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:  
[Name(s) of inventor(s) to be deleted]

**VI. METHOD OF PAYMENT OF FEES**

- Attached is a check in the amount of \_\_\_\_\_.
- Charge Bingham McCutchen's Deposit Account No. **50-2518** in the amount of \_\_\_\_\_.
- Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Bingham McCutchen's Deposit Account No. **50-2518** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **50-2518**:

- 37 CFR § 1.16 (Filing fees and excess claims fees)
- 37 CFR § 1.17 (Application processing fees)
- 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- The power appears in the original papers in the prior application, filed on March 6, 2003, and accepted on March 12, 2003.
- The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.

A new power has been executed and is attached.

Please send all correspondence to Customer Number 23639:

**\*23639\***  
23639  
PATENT TRADEMARK OFFICE

BINGHAM McCUTCHEN LLP  
Three Embarcadero, Suite 1800  
San Francisco, CA 94111-4067  
(650) 849-4400

Please direct all inquiries to Peter C. Mei, at the above Customer Number.

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

A petition, fee and response has been filed to extend the term in the pending prior application until \_\_\_\_\_. A copy of the petition for extension of time in the prior application is attached.

A conditional petition for extension of time is being filed in the pending prior application. A copy of the conditional petition for extension of time in the prior application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

BINGHAM McCUTCHEN LLP

Dated: 9/16/03

By: Gerald Chan  
Gerald Chan  
Reg. No. 51,541